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REMARKS

Applicants provide the following information and remarks responsive to the requests made in paragraph 3 of the 37 C.F.R. §1.105 Communication as known and readily obtained by Applicants pursuant to this section:

(i) The original parents from which corn variety I002573 was developed are designated 01DHD10 and 90DJD28. Variety 90DJD28 also has the designations HCL307, HXN11, PS10522 and SGI944. Variety 01DHD10 also has the designations HCL201, HXN7, PS10510 and SGI864. Lines 01DHD10 and 90DJD28 were on sale or in public use as of the filing date and thus "publicly available" as that term is used in the Request. Applicants understand this term to refer to whether the parent plants had been on sale or in public use as of the priority date of the current application. Clarification is respectfully requested if this interpretation is not what was intended.

(ii) Corn variety I002573 was developed as follows:

Summer 1996 The inbred line 01DHD10 (a proprietary Monsanto inbred) was crossed to the inbred line 90DJD28 (a proprietary Monsanto inbred).

Winter 1996 The F1 was grown and self-pollinated.

Summer 1997 The F2 seed was grown and self-pollinated in nursery rows 97S1EX 517 through 526. Forty-nine ears were selected.

Summer 1998 The F3 ears were grown ear to row and self-pollinated. Three ears were selected from nursery row 98BGO 5167.

Summer 1999 The F4 ears were grown ear to row and self-pollinated. Two ears were selected from row NUINV 14664. Ear one was selected and coded as corn variety I002573.

Winter 1999 The F5 ears were grown ear to row and self-pollinated. Ten ears were selected from row 99MX 1008.

Summer 2000 The F6 ears were grown ear to row and self-pollinated. Final selection was made by bulking F7 ears from row AT IN 13002.

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(iii) As indicated above, lines 01DHD10 and 90DJD28 had been "publicly available" as of the priority date. 01DHD10 is disclosed in U.S. Patent No. 5,939,606, issued August 17, 1999 and in PVP Certificate No. 9800271, issued November 26, 2002. 90DJD28 is disclosed in U.S. Patent No. 6,121,519, issued September 19, 2000 and PVP Certificate No. 9700167, issued January 30, 2002. The extent of disclosure of progeny of 01HGI4 and 4KDH1 is provided under item (iv).

(iv) At or before the time of filing of the instant application there are believed to have been 9 other corn lines produced using said method and said parental corn lines: 01DKD1, 01DKD3, I294213, 49DKD4A, 49DKD6, 49DKJ1, 49DKJ2, 64DKD2 and 64DKD3. It is believed that I294213 was publicly available or sold in 2003 and that the other lines were not publicly available or sold as of the filing date.

CONCLUSION

This is submitted to be a complete response to the referenced Communication. In conclusion, Applicant submits that the present case is in condition for allowance and such favorable action is respectfully requested.

The Examiner is invited to contact the undersigned at (512) 536-3085 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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